

16
Sir Daniel Dolins

CHARGE

TO THE

Grand-Jury, &c.

CHARLES

TO THE

GRAND JURY



Duplicate of
518 h 5/15

CHARGE

16

Sr. Daniel Dolins, Kt.

TO THE
Grand-Jury,

And other Juries

OF THE
County of Middlesex;

At the General Quarter-Sessions of the Peace,
Held the Seventh Day of *October*, 1725.
at **WESTMINSTER-HALL.**

*Printed at the Desire of the Justices of the
Peace for the County, and the Jury of High-
Constables and Constables.*

L O N D O N:

Printed for SAMUEL CHANDLER, at the Cross-
Keys in the Poultry, M.DCC.XXV.

Middx. ss. *Ad General' Quarterial' Session' Pas-*
Domini Regis ten' pro Com. Middlesex
apud Hicks s-Hall in St. John-Street, in
Com. pradict. per adjourn. Die Mercurii
scilicet decimo tertio Die Octobris, Anno
Regni Domini Georgii nunc Regis Magnae
Britanniae, &c, duodecimo.

THIS Court being sensible that the Charge
Given by Sir Daniel Dolins, Kt. Chairman
of this present Sessions, on Thursday last, being the
first Day of this Sessions, then begun and holden
for this County at Westminster-Hall, to the Grand
Jury, and other Juries, then and there assembled
Is a Pious, Loyal, and Learned Charge, very much
tending to promote a Dutiful Zeal and Affection for
His Majesties Person, Royal Family, Administration
and Government: The Suppression of Vice, and all Kinds
of Corruption; and well suited and fitted for the En-
couragement, Encrease, and Propagation of Virtue; and
a Faithful, Diligent Discharge of every Office and Trust
Doth Order, that the Thanks of this Court be
and they are hereby Given to the said Sir Daniel
Dolins for His said Charge; And this Court doth
Desire, that for the Benefit of the Publick, the said
Sir Daniel Dolins will be pleased to Cause his said
Charge to be Printed.

per Cur'

WALTER.



To the Worshipful

Sir *Daniel Dolins*, Kt.

Chairman at this present General Quarter Sessions of the Peace, now holden for the County of *Middlesex*.

WE the Jury of Constables, whose Names are hereunder written, do give our Humble Thanks for your Excellent Charge, and desire you will be pleased, for the Good of the Publick, to cause the same to be printed. Witness our Hands the Seventh Day of *October*, 1725.

*Clifford William Phillipp*s, High Constable of the Tower-Division.

Joseph Sutton, High Constable of the Hundred of Gore.

Joseph Cooper.

Joshua Gilbert.

Gilbert Roddy.

Walter Husbands.

A

John

John Townsen.
James Bolton.
William Stretton.
William Biddel.
Walter With.
John Sparks.
Thomas Pond.
Richard Andrews.
John Hunt.
Richard Hatt.
Lindsey Marsingale.
Thomas Anderson.
Solomon Ware.
Richard Gapper.
Thomas Bell.
John Reddell.
Richard Prentis.

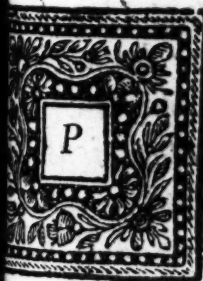




T O T H E

Right Worshipful

His Majesty's Justices of the
Peace for the County of
Middlesex.



*Ermit me, Gentlemen, in the
Beginning of this Dedication,
and Address, to express my
Gratitude for the Honour you
have done me, in desiring me
to Publish in Print the fol-
lowing Charge to the several*

*juries for the County of Middlesex, com-
posed and delivered by me, at the Request
of your Worthy Chairman, the Ingenious,*

A z

Learnt

The DEDICATION.

Learned, Judicious, and Excellent
Abney. The many Favours and Civili-
ties I have received from you; and your
common kind Acceptance of my sincere, and
meant Services to you and the Publick, can
be pass'd over in Silence: Your Repeated
Applications, and Obliging Expressions
Desires to Advance me to the Honour
Chair, deserve and merit a particular Notice
and becoming grateful Acknowledgments from
me. Could I have found in my self Abilities
and Qualifications answerable to your Favou-
rable Apprehensions, and Equal to the Impos-
sible Trust, I should not have waver'd, or deny'd
what was desired; especially by Gentlemen,
whom I have so Great and Just a Value and
Esteem, and in a Matter relating to the Ser-
vice of my King and Country: The Experience
I have since had, as it were of Necessity
upon the Request, as I said, of my Honour-
able Friend, of the Nature of the Office, and
Duty of the Chairman, hath convinc'd me
and I believe you likewise, what Occasions
I have had, and how much I have been oblig'd
to you, Gentlemen, especially of the Lord
Robt, for your seasonable Interpositions and
Directions, in Matters of Difficulty, and con-
siderable Moment and Importance: If I have
learnt any thing by these occasional Services
that may any ways qualify me to discharge
the like Dutiful Assistant Offices for the
future, I shall readily employ the same, for the

Ed

The DEDICATION.

Ease and Accommodation of any Gentleman that shall be chosen, and consent to undertake this Honourable, Laborious Trust: The Inconveniencies attending the constant, continued Discharge of the Chairman's Duty, may, I am sensible, be so considerable, with Respect to Gentlemens particular, or other Publick Affairs, as to make the Office, if not Burdensome, yet at least Uneasy in some Degree, even to those, who, for the General Common Good, have been willing readily and chearfully to take it upon them, and already have discharged it with so much Honour to the Commission, and themselves, and Extensive Benefit to the Publick. The Recess some Gentlemen have had for a Time from the Chair; and the Reasonable Prospect they have of Success, in the Delightful Service of their Sovereign and Fellow-Subjects; will (I encourage my self) upon proper Application, excite and engage them to renew their Pleasant Toil and Labour, in so Respectful and Commendable an Office; in a Service so necessary and beneficial to the Publick.

As to the Charge it self, Gentlemen, I cannot be so vain, as to think it perfect in its Kind, or free from considerable Defects and Imperfections, easily to be Discerned by Quicker Sights, more Penetrating, Piercing Eyes, and Impartial Judgments than my own. All known, wilful Errors and Mistakes,
after

The DEDICATION.

after a careful Perusal and Review of it, I may venture to purge and clear it of: And for involuntary ones, I am assured of your candid Construction, and equitable Interpretation, or Forgiveness for them: Such as it is, at your Request, and in Pursuance and Obedience to your Order, I submit it to the Publick. The favourable or good Character you have been pleased to give the World of it, tho' it very much exceeds the Deserts of the Performance, yet it very Truly Represents, and exactly Expresseth the Aim and Design of the Author: The concurrent unanimous Recommendation of the Court, gives me some good Liking of it, and more Promising Hopes than otherwise I could have had, that it may in some Degree Answer or Further those Great and Glorious Ends and Purposes, (or at least some of them) mention'd in your Order of Court.

The Promoting a Hearty Zeal and Affection for His Majesty, and the Royal Family, and a grateful Sense of the Happy Administration and Government of our Publick Affairs, are Ends worth Designing and Striving for, by every True British Protestant: The using all Lawful Means and Endeavours, for the Advancement of Piety towards God, the Suppression of Vice, and the Incouragement and Increase of Virtue; are such Noble, Generous, Kind, Beneficent Attempts, for the Good of Mankind in general; that not the
Men

The DEDICATION.

Men who Profess the Christian Religion singly, but the Men that Depend only on Reason; the Men of good Sense and Judgment, and of Moral Honesty and Probity, must, if they will act Conformable to the Principles they pretend, or profess to be Influenced and Governed by; Heartily Espouse, Diligently Prosecute, and Delightfully Glory in, and Please themselves withal. The Attainment of these Great and Good Things; And the Exciting a Due Care, Diligence, Integrity, Incorruption, and Circumspect Behaviour in All Ministerial Officers and others, in their several Respective Trusts, Relations, and Capacities, for the Glory of God, the Honour and Safety of His Majesty; and the Peace, Benefit, and Prosperity of that Publick Administration, and Government, which every True Britton, with so much Comfort and Pleasure lives under; is, I perswade my self, the Great Aim, and End of your Order; and my Obedient Concurrence therewith: If therefore these, or any Number of them, or any other valuable Ends, be attained by the Publication of this Charge, I shall then, Gentlemen, have inexpressible Cause, and Reason, to return the Unmerited Thanks the Court was pleased to Order to be Given to me, back again, with Vast, Additional Degrees of Gratitude and Obligation to the Court: But if the Event should be otherwise, and the Success
not

The DEDICATION.

not Answer your Kind and Honourable Intentions, yet I shall always think my self bound Thankfully to Acknowledge the Honour you have conferred on me, beyond the Deserts of,

GENTLEMEN,

Your very much Obliged,

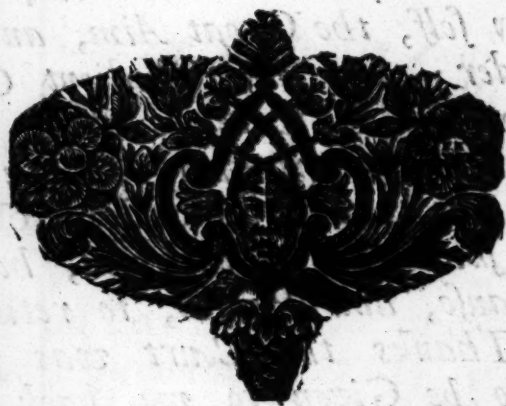
most Obedient, and

most Humble Servant,

Hackney, Octob.

21. 1725.

Dan. Dolins.



THE



THE
CHARGE
OF

Sir *Daniel Dolins*, Kt.

*Gentlemen of the Grand-Jury, and you Gentlemen
of the Juries of High-Constables & Constables.*

THE Excellency of our Constitu-
tion, and Admirable Frame of our
Government; The Wisdom, Ju-
stice, and Goodness of our Laws;
The Peculiar Happiness of this
Blessed Isle of *Great-Britain*, under the Mild,
Auspicious, and Extensively Glorious Reign of
our Most Gracious Sovereign Lord King
GEORGE; The present Prudent, Peace-
ful, and Prosperous Administration of all our

Publick Affairs, in his Majesty's Absence, much to his Majesty's Honour; and the Ease, Quiet, Profit and Advantage of all his Subjects: And lastly, The Secure Enjoyment and Free Use of our Properties and Estates with all those valuable Religious, and Civil Rights, Liberties, and Privileges, possessed by us, without unreasonable or unnecessary Restraints; so that every Man may be good and virtuous, as righteous and just, beneficent and kind, as charitable and merciful as he pleaseth; tho' not so bad as wicked, so vile and corrupt, so unjust and injurious, so oppressive and cruel, as for Mens evil Inclinations and Dispositions, excite and prompt them to be.

These, GENTLEMEN, are all of them Subjects of a very Pleasant Sound to an *English* Ear; and might, if I had Time, very delightfully and usefully be enlarg'd upon before this Audience. Every one of you, that thinks for himself, and judgeth coolly and calmly as he ought, must, I perswade myself, be sensible of his great Happiness, living under such a Sovereign, such an Administration of the Government, and such Laws, as we at present are blest with: I yet, I must beg Leave to tell you, that notwithstanding so large a Stock, such vast Materials of Happiness, we shall be far, very far, from being compleatly happy, unless we rightly use, and put them well together. Unless all of us, according to the Duty

our several Stations and Relations, our respective Offices, Trusts, and Capacities, do our Best to promote and further the Execution of those good Laws and Statutes, that have been made for the Publick Safety and Benefit. The best framed Laws, GENTLEMEN, must be useless, insignificant, dead Letters and Things, if either they influence not the Practice, or correct not Disobedience: And how can this be done, and Obedience be thereby secured, but by their Execution? Far be it from us of this Nation, to have it said of us, either at Home, or Abroad, that we have the best Body of Laws, but the least observ'd, or the worst executed, of any Kingdom or People in the Universe. It is very much, GENTLEMEN, in your Power, and will be in the Power of others, who shall be in the same Capacity of Grand and other Jury-Men, in this County, or elsewhere, either to prevent, or wipe away this very shameful and ignominious Reproach: You are summon'd from the several Parts of this County, and therefore, from your several Stations and Situations, are suppos'd to be acquainted with most, at least, of the open and notorious Breaches and Violations of the Laws, presentable in this Court: And when you are come hither, you, each of you, take a very solemn Oath, in the Presence of the Great, All-seeing God, and in the Face of this Court; That you will *diligently* inquire, and true Presentment make, of all such

Matters and Things, as shall be given you in Charge. The very Name of *Grand-Jury Man*, is a Title of Respect; the great Antiquity of this Institution, adds to the former Respect, a Degree of Reverence; and makes it in some Sense Venerable; But the Greatest, the Truest, nay, I was about to say, and may Venture to speak it out, the only Real Honour that attends this high and important Trust, is derived from the great Powers the Law invests you with; and the mighty extensive Benefits and Advantages which will accrue to our Sovereign Lord the King, and his Subjects, from a faithful, diligent, judicious, and impartial Discharge of this great Trust committed to you: GENTLEMEN, you are neither influenced by Envy, Hatred, or Malice, on the one Hand nor bias'd by Fear, Favour, Affection, Reward, Gain, or Hope, on the other; but all Things, according to the Best of your Knowledge, Skill, and Judgment, after an honest and impartial Search and Examination, you Present the Truth, the whole Truth, and nothing but the Truth; Then will you be truly honourable; Honour will become, and set well and gracefully on those that act thus according to their Oaths. But if these Things be wanting, the Honour vaniseth; the Name of *Grand-Jury Man* is vain, empty, insignificant Name and Title and the Man that thus betrays his Trust will be treated with Contempt, Ignominy,

and Reproach, by those that love their King
and Country best.

The Court, GENTLEMEN, depend there-
fore upon your *due Discharge* of the Trust
reposed in you. The Solemnity and becom-
ing Manner in which your Foremen, and
the rest of you their Fellows, have generally
taken the Oath appointed by Law, gives
us promising Hopes, that you will observe
and keep it, now you have taken it. I
shall proceed therefore immediately to lay
before you those Matters and Things, which
the Court by me do earnestly intreat and
perswade, and authoritatively direct and
charge you, diligently to enquire, and make
true Presentment of.

It will hardly be possible barely to specify,
much less to enlarge upon every Matter or
Thing, that is Presentable by you: For
Order and Method-sake, and likewise to
help your Apprehensions and Memories a
little, I shall distinguish them into Matters
and Things relating to God and Man; to
the King, and all his People and Subjects;
to the Bodies, to the Estates and Properties,
to the Safety and Peace, to the good Name
and Character, to the Comforts and Conve-
niencies of Men; to their Houses and Habi-
tations, for their secure and quiet Enjoyment
of Themselves, Families, and Goods. And
these may again be subdivided into almost
innu-

innumerable Branches : but as this would rather perplex and confound, or at least load your Memories, rather than help you really to distinguish and discern between Offence and Offence ; I shall give you no Trouble with those minute Matters : There is another Division of Offences Presentable by you, that is not to be omitted by me ; namely, into Offences Capital, or not Capital ; that is, those Offences that are to be punished with Death and those that are not to be punished with Death, but some lighter Punishment ; as Fine Imprisonment, corporal Punishment, Transportation, and the like.

As to Offences against the Divine Majesty as far as they lie within the Reach of human Knowledge, are cognizable by a Civil Jurisdiction, and are subject to temporal Punishments ; they are to be taken Notice of, and Presented by you in the first Place. I would feign hope every one of you, GENTLEMEN have that Awe and Dread, that becoming Fear and Reverence, nay that Love and Affection, that Grateful, Ingenuous Disposition towards your Great Creator, Preserver and Benefactor ; towards the King of Kings and Lord of Lords, (*your Sovereign Supreme Lord and King*) as not to suffer any Blasphemy and Profaneness ; any vile, detestable, ludicrous, impious Treatment of the Divine Name, Nature and Attributes, that come to your Knowledge upon Inquiry, to pa

unpre

unpresented : It is justly said, that the Name and Character of good Kings and Princes is so far Sacred, as to be treated with Decency and Respect ; but this is absolutely, unlimitedly true of the Great Majesty of Heaven and Earth : He is infinitely Holy, and Perfect ; and therefore his Name ought to be Sacred in the Highest, and most Exalted Sense. As to the Particular, Specifick Offences against the Divine Majesty, to be given you in Charge, I shall rather refer the Notice of them till we come to consider his Majesty's Royal Proclamation read to you ; A very Moving, Pressing, Powerful, and most Authorative Charge given to us, and you, and the whole Kingdom.

The next important Arrticle of Inquiry, that I am to lay before you, is High-Treason ; that is, the highest, most fatal, and most flagitious, capital Offence, that can be committed in any Community, that is called a Kingdom, or under Monarchical Government ; as being against the King, the supream Head of Honour, Influence, and Government. And when you consider how great and gracious a Sovereign is now setting on the Throne of *Great-Britain*, His Sacred Majesty King *GEORGE* ; ever securing, and inviolably maintaining all Legal Rights, Liberties, and Privileges, to all his Subjects ; ever dispensing unspeakable Blessings and Benefits among
all

all his People: And what an Illustrious, Excellent Royal Progeny we are now Blest with, Eminent for Princely Virtues and Endowments, Their Royal Highnesses the Prince and Princess of *Wales*, and their numerous Royal Issue; promising Happiness to our Posterity at far distant Years, or Ages: How must this abominable Crime, in these Lights and Views, be aggravated, and made more odious and detestable; as being against such a Sovereign, and destructive to such a Royal Family.

Consider, GENTLEMEN, a little further His sacred Majesty at this Time, with the joint wise Counsels, Advice, and powerful Assistance of the Mighty, Magnanimous, and truly Protestant Prince and Sovereign, the King of *Prussia*, his Majesty's Royal Son-in-Law; strenuously, incessantly, and gloriously making the noblest Efforts, to recover the just Rights, and Religious Privileges of our Brethren, of the same Holy Religion Abroad.

Their melancholy and miserable Condition ought, methinks, to affect every true *British* Protestant, as with a Christian Sympathy, and sincere Concern and Grief for the unhappy Sufferers; with a proportionable Degree of Honour, Love, and tender Care, of our Gracious and Compassionate Sovereign, so readily and cheerfully offering them his be-

Help

Help and Assistance: Nor ought we to forget to be in a particular Manner thankful our selves, for our happy Situation and Circumstances, so vastly different, and so much better than theirs.

The serious Consideration and Reflection on these Things put together, the Court depends upon it, will animate and quicken you, GENTLEMEN, in your Enquiries into all Sorts of Treasons against his Most Excellent Majesty King *GEORGE*, and his Royal Highness *George* Prince of *Wales*. Here, if any where, and above all, we expect from you, that you will be, as we say, quick and sharp-sighted: To find out all latent, lurking Treasons, you are *most diligently* to enquire, and make true Presentment of any Sort or Kind of this heinous Offence, whenever you have found it. And this leads me to inform you, That High-Treason is of Four Sorts or Kinds.

That which immediately belongs to the King, and the Royal Family.

That which concerns His Officers in the Administration of Justice.

That which relates to His *Seal*.

And that which regards His *Coin*.

As to the *First*, Compassing the Death of the King, or his Royal Highness the Prince of *Wales*, that declaring by an Open Act, a Design to Destroy, Imprison, or Murder the King, &c. is

High-Treason within this Branch. So that y^e fee the Thought of the Heart must be expressed by some open known Act and Deed ; otherwise indeed, it cannot be of humane Commizance ; such as Words put down in Writing ; providing Weapons to kill the King &c. sending Letters to second and further His Death : Assembling People to take the King into their Power : Writing Letters to a Foreign Prince, inciting to an Invasion and the like : Actual Levying War against the King, is likewise contain'd in this First Kind of High-Treason : Persons consulting and conspiring together for this Purpose especially if a War be levied, the Conspirators, as well as the Actors, are Traitors. So is raising a Force, to burn or throw down Inclosures in general, from Place to Place, or Town to Town : Or to change Religion : Or to augment the Wages of Labourers : Holding a Castle, or Fort against the King's Forces, is a levying War. Adhering to the King's Enemies, either giving them Aid, Assistance, or Comfort. Or by surrendring the King's Castle to such a one for Reward ; this is likewise a Part of the First Kind of High-Treason above-mentioned.

The *Second* Sort of High-Treason, I told you related to His Majesty's Officers in the Administration of Justice ; as killing the Lord Chancellor ; Treasurer ; Justice of either Bench ; Justice in Eyre ; or of Assize

Oyer and Terminer: But then you are to take Notice, that it is confin'd to these Officers only, and to them only doing their several Offices, in their Places, or Seats of Justice.

The next Species of High-Treason I mention'd to you is, the Counterfeiting the Great, or Privy Seal: This must be taken strictly: For Compassing, Contriving, or Designing to Do this only, is not High-Treason: Nor Affixing the Great Seal by the Chancellor without Warrant; nor fixing a true Great Seal to another Patent; but a Great Misprision. All Aiders and Abettors to the Counterfeiting the Great and Privy-Seal, are also guilty of High-Treason by the same Act: And so like-

wise as to the Privy Signet, or Sign Manual, by another Statute. 1 and 2 of P.
and M. c. 11.

The Last Sort of High-Treason, I said related to the Coin: To forge the King's Coin was High-Treason, tho' the Offender did not utter it: And the Counterfeiting it is affirmed to be so 25 Edw. III.

by Statute; Clipping, Filing, washing it, &c. is now made High-Treason, by another Sta- 5 Eliz. c. 11.

tute. Forging and Counterfeiting of Foreign Money made current by Proclamation, is also 1 M. 1.

High-Treason; Bringing Counterfeit Money from Abroad, is 1 and 2 P.
and M.

likewise High-Treason; provided

it be made after the Likeness of *English* Money; be brought from a Country belonging to some Foreign Prince; and brought in knowingly; and uttered by the same Person, either in Trade or Merchandize; or Payment made thereof; By a Statute made the 8th and 9th of *W. III.* c. 26. made perpetual by 7 *A. c.* 24. Any Person mending a Punchcon, Matrix, Stamp, &c. (except such as are employ'd in the Mint) or Conveying any of the Instruments out of the Mint; or edging any diminished, or counterfeit Coin like Edges made at the Mint; shall be guilty of High-Treason: So likewise they that colour, or gild Coin, resembling the current Coin, &c. as also their Aiders and Abettors

Thus, GENTLEMEN, I have laid before you the most material Instances of High-Treason, under those Four Sorts and Kinds I at first divided it into; Some I have purposely omitted, as not properly falling within your present Enquiry; and therefore not necessary or useful to be given you in Charge.

Before I proceed to other Things, made High-Treason by Statute, of a different Nature from the former, I think it proper to put you in Mind of that Excellent Statute of the 6th of Queen *Anne*, Entituled, "An Act for the Better Security of Her Majesty's Person and Government, and of the Succession to the Crown of Great-Britain in the Protestant Line;" Which makes

makes it High-Treason in any Person, who shall maliciously, advisedly, and directly, by Writing, or Printing, maintain and affirm, That Her then Majesty was not Lawful Queen; or that the pretended Prince of Wales hath any Right to the Crown; or any other, but by the Acts of Settlement; Or that the King and Parliament cannot bind the Succession.

The High-Treasons by other Statutes are

These: Refusing the Oath of

Supremacy, upon the second

5 Eliz. c. 1.

Sender: Bringing in Bulls, or

13 Eliz. c. 2.

executing them, or reconciling

whereby to the Church of Rome;

Absolving Subjects from Obe-

23 Eliz. c. 1.

dience to His Majesty, or recon-

ciling them, as they call it, to

Rome; both in the Person that

reconciles, and is Reconciled:

The same, if a Priest, or any

27 Eliz. c. 2.

Englishman in Foreign Semina-

ries, come into the Realm, and

submits not himself in two Days.

by the Statute of King James I.

Anno Tertio

not only the Absolvers and Re-

c. 4.

concilers, but their Aiders, Abet-

ters, Procurers, &c. are guilty of

High-Treason.

Misprision of Treason, is a bare Know-

ledge of Treason without Assent: Every

Man therefore that knows a Treason, and

would keep himself free from Danger of

Treason,

Treason, or Misprision; ought to shew his Abhorrence of the Treason; and that He is no ways Partaker of the Crime; by immediately discovering it; as soon as known, to His Majesty, Privy-Council, Secretaries of State, or other Magistrate.

You are also to Present All Petty-Treasons; that is, when a Servant
 25 Edw. III. kills his Master, or Mistress, or Master's Wife, during his Service: Or even after his Departure, if upon Malice contracted during his Service: Or when a Wife kills her Husband; whether alone, or with a Stranger; but if by a Servant, then Petty-Treason in both: If a Son at Age, receiving Meat, Drink, and Wages kill Father or Mother, it is Petty-Treason because He is thereby Treated, and so shall be reckon'd and esteem'd as a Servant: All Aiders, Abettors, Procurers in Petty-Treason are within the Statute of the 25th of King *Edward III.*

The next General Head of Enquiry that I am to recommend to you, GENTLEMEN, is, concerning Felonies; which are such either by common Law, or by Statutes. The former, that is, Felonies by common Law, are divided into these four Sorts (1.) Such as are committed against the Life or (2.) Against the Goods; or, (3.) Against the Dwelling of a Man; or, (4.) Against the Protection of Publick Justice.

Under

Under the First Head, You must take into your Consideration, the Case of a Man that kills himself; or, as our Law terms it, is *Felo de se*; and also of those that kill other Men: And this may be done sometimes *involuntarily*, as by Misfortune; *per infortunium*, our Law calls it; or *per necessitatem*; either in the necessary Defence of Justice, or of one's self; or *voluntarily*, without Malice, as in Manslaughter; or with Malice, and then it is Murder. No Man can be said to be *Felo de se*, who is not at the Age of Discretion, or *Compos Mentis*: And therefore a Lunatick during Lunacy, or *non Compos*, by a Disease, or otherwise, killing himself, is not guilty of Felony: Here I would observe, as in other Felonies in which Death is contained, it must ensue within a Year and a Day after the Stroke, or the Cause of the Death: *Chance Medley*, or Death *per infortunium*, supposeth the Man that kills the other, to have been doing a lawful Act: If the Death happened otherwise, the killing would have been either Murder, or Manslaughter: There is another kind of Death by *Misfortune*, which is not only without the Fault, but without the Agency, or Procurement of any other: As a Man falling from a Tree, a Horse, or Cart, and the like. If the Death that hath happen'd, be really *ex necessitate*, of necessity; it must have been either in the Execution of Justice, by a Person that hath proper Jurisdiction in that Cause;

Cause; and perform'd and done by a proper Legal Officer; and pursuant to the Judgment given: Or in Advancement of Justice; a Bailiff, or Sheriff, having a Warrant to Arrest a Person Indicted of Felony, and he will not suffer himself to be Arrested: Or the Bailiff, or Sheriff, opposed and Resisted in the Execution of a Civil Process, kills the Person thus opposing his Authority, it is no Felony; but Death *ex necessitate*: But in all of these, and the like Cases, Care must be taken, that Malice doth not screen, or lurk under a pretended Necessity; for then it will be Murder, and not *ex necessitate*, or Necessity. It is likewise Homicide of Necessity, and justifiable, if it be done in Defence of my House, that Rogues come to Rob or Burn; Or of my Person: When Assaulted in the House, or High-way, by High-way-men or House-breakers; If I or my Servant kill them, 'tis no Felony; the same if a Woman kills the Person that Assaults to Ravish her.

If the Necessity pleaded be *se defendendo* it must be in the necessary Defence of Life and there must be a giving back; Unless the doing that, as the Circumstances are must manifestly hazard and endanger the Life of the Person Assaulted.

All voluntary Homicide, is either with or without Malice; If with Malice Forethought, then it is Murder: If without then Manslaughter. This Malice may either

implied, or *expressed*; If the Manner in which it is done, shews a Design and Intention to Do it, Malice is imply'd: So likewise if the Person kill'd be a lawful Officer, or his lawful Assistant, unless he do what is not warrantable; for then it is only Manslaughter: If a Person Assaults another with Design to Rob him; the Assaulted resists, and is killed; Malice is implied, and it is further. As to Malice *Express*, tho' there may be some Variety in this, as to Principals of the First and Second Kind and Degree, and Accessories before the Fact; with the Distinctions of which I shall not trouble you: Yet in every Instance of this Sort of Murder, Malice is suppos'd to be a necessary Ingredient; the Spring and Cause continuing to operate till the Stroke, or other Act, be perform'd, which produceth the Effect, *viz.* the Death of the Person.

As Murder supposeth Malice an Ingredient, so Manslaughter supposeth the killing to have been without Malice Forethought, either imply'd or express: A sudden Quarrel, or a sudden Provocation, or an unlawful Act without Deliberation, or Intention of personal Hurt: One or more of these precede or accompany that which occasions the killing in what we call Manslaughter; and all of them are inconsistent with Malice Forethought.

D

You

You are likewise, GENTLEMEN, to enquire into, and Present Felonies relating to the Goods of any Person, which is term'd Law *Larceny*; and that is either Simple Mixt: The First is, again divided into Grand Larceny, when the Value of the Goods is above Twelve-pence; and Petty Larceny, when it is of or under the Value of Twelve-pence. The Things taken must be purely Personal Things, but not from the Person, or out of the House of him who hath a Right to them; for then it will be an Offence of another Nature and Denomination: It must appear to you likewise that the Taking away was Felonious, with a Design to steal the Thing taken away. But there is no Difference to make the taking Grand or Petty Larceny, whether one or more were concern'd, or the Goods amounting together to above Twelve-pence were taken at one and the same Time or not.

If the Felonious taking away be of Money or Goods, of any Value, from the Person, and at the same Time with Violence or putting him in Fear, then it is Robbery; but if it be done without Force or Violence, *Clam & Secrete, Privately and Secretly*, in Picking of Pockets, Cutting a Purse, and the like; then is it called Larceny from the Person; If this Felonious taking away of Money or Goods, be out of the House of the Person that lives in it with his Family; then

Robbery, with an additional Aggrava-
 tion.

I now proceed to lay before you, to be en-
 quired into and Presented, the Felonies re-
 ating to the House, Dwelling, and Habita-
 tion of a Person; And they are generally
 known to be these Two: Either Breaking
 and Entring into the Mansion House of ano-
 ther in the Night Time, with an Intent to
 Commit some Felony, which is commonly
 called Burglary: Or Burning of a House
 and Habitation. Breaking a Window, draw-
 ing a Latch, Unlocking a Door, Breaking a
 Hole in the Wall, and the like, are to be
 esteem'd a Breaking within the Law: So
 is setting the Foot over the Threshold;
 Putting a Hook, a Hand, and the like,
 within the Window, an Entry in Law. Tho'
 an Actual Breaking, or Entry, is not always
 necessary; that is, there are some Cases
 that are Burglary without them; which it is
 not needful now to recite: If this be done
 when it is Dark, it is done in the Night, in
 Construction of Law; A House that a Man
 commonly Dwells in, or by Course and
 Turn, if He hath Two Dwelling Houses,
 tho' occasionally it may be empty, shall be
 reckon'd his Mansion House, and all the
 Out-Houses and Buildings belonging to it.
 So a Chamber in one of our Inns of Court,
 where a Person commonly resides and lodges,
 shall be called a Mansion House: If this
 Breaking and Entring this Mansion House in

the Night Time, be with an Intent to commit a Felony, then it is Burglary; but otherwise, if only to commit a Trespass, or make an Assault upon the Owner of the House.

Voluntarily and Maliciously Burning the House, Out-House, Stabling, or Barn, with Corn in it, is likewise Felony, and Presentable by you; whether he begins with his own House, Designedly and Maliciously to Burn the House of another, and accomplisheth it in whole or in Part; or whether he Maliciously and Designedly Burns one, which Burns another's against whom he had no Malice; It is however Felony with Respect to the Last as well as the First.

The last Sort of Felonies at Common Law I shall now mention to you, and relates to the Hindrance and Obstruction of Public Justice, by Preventing the Felon's being brought to his Trial, and attending the Issue of the Law: This may be done by the Prisoner himself, by Breaking Prison, or Escape: By the Officer that hath the Felon in Custody; either *voluntarily*, or *involuntarily*; if *voluntarily*, then a Felony having been really committed, and the Felon committed by a lawful Warrant, the immediate Officer that voluntarily permits the Felon to Escape, is himself chargeable with Felony. If *involuntarily*, but thro' Negligence, then the Officer who thus permits it, is liable

be punished by Fine, according to the Crime
of the Person Escaping.

As to the Felonies by Statutes, GENTLEMEN, they are so many, that the Time will not permit me to enter into the Detail, or particular Enumeration of them: Nor is it necessary, there being no such Disputes or Difficulties about them, as should obstruct your Enquiry, or prevent your Presenting them, as they shall come to your Knowledge.

The next Sort of Offences that you are to make diligent Enquiry into, and truly to Present, are those which we before called, *Capital*; such is Forgery, Perjury, and Subornation of Perjury: These are Detestable Crimes, and therefore I hope will be narrowly look'd into, in your Enquiries, that they may be vigorously Prosecuted, and receive the just Sentence and Punishment they deserve.

You likewise are to Present all forcible Entries; All Riots and Tumults, in Pursuance of the seasonable Act read to you before the Charge; and All Kinds of Breaches of the Peace: Also all Fore-stallers, Regraters, and Ingrossers: These are Pernicious Sorts of People; who Plot and Conspire together to Advance unreasonably, or without any Real, Just Occasion, the Price of Victuals, to the great Oppression, and Breeding of Murmuring and Discontent, especially among the lower and meaner Sort of People:

You

You are also to Present all Nuisances; the Decays of Publick Bridges; and common High-ways ruinous, and much out of Repair.

You do not, GENTLEMEN, I presume expect, that the Court should specify in their Charge, every Offence of the lower Kinds which come within your Sphere, or the Duty of your present Trust to Present. The allowed Time would not permit it; and many of you may be supposed not to want the Information of these minuter Particulars especially after you have received so many *excellent Charges* of the like Nature in the Court, from Gentlemen of the Best Capacities, Abilities, Qualifications, and Endowments. But there are two or three Things that must beg Leave to insist upon, and earnestly press you very diligently to enquire into and truly to Present.

All Treasonable Books and Papers printed and Treasonable Words spoken, against His Majesty: All Libels against His Principall Ministers of State, and Officers of Justice in Higher or Lower Orders and Degrees. We are so happy indeed, as to have lived to see this *Wicked Spirit* in a good Measure tamed, and the foul Mouth of Malice, Scandal, and Falshood, with Respect to His Majesty, and His Prime Ministers, at least, not quite shut, yet much closed, or more silent than formerly: A Wise Government. A Cool and Calm Administration; A due Mixture of Pains, Penalties, and wholesome

Severities, with Connivance, Forbearance,
 Indulgence, and Pardon, will have happy
 Effects in this Respect, and make subside
 that sharp or bitter Ferment, that frets and
 vexes the Publick Body: But then, GENT-
 LEMEN, you will remember, that strict
 Vigilance; An open, watchful Eye; and an
 attentive, listening Ear, are necessary to guard
 against fresh Attacks. The Greatest Per-
 sonages among us, as well as those in Inferior
 Stations of Office and Government, are
 liable to undergo a long Course of the vilest,
 ill-grounded, far distant Scandal and Re-
 flection, without almost a Possibility of dis-
 covering *themselves* the Authors and Pub-
 lishers of the Base Falshoods, or even the
 Libels that contain them: *Professed Friends*
 to the Publick, too often deny their proper
 Assistance, and, if they do not please and
 gratify themselves with the vile, lurking
 scandal, creeping from Hand to Hand, in a
 mean, clandestine Manner; yet are weakly
 credulous, and too far Conspiring with
Avowed Enemies, to shroud and shelter the
 Wicked Instruments of the False and Lying
 Accusations: But you, GENTLEMEN, who
 are upon your Oaths, in Duty Bound, and
 perhaps the Best Situated, the Best Qualified,
 to make the Discovery, and bring the
 Offenders under Just Prosecution; will not,
 I hope, think you discharge your Duty, now
 laid before you, *as you ought*, without Pre-
 senting all such Offences and Offenders, as
 upon

upon your Enquiry shall come to your Knowledge.

The Second Thing I would recommend to you, in a very particular Manner, to Present, is, The Neglect, that is, the wilful Neglect of Duty in Ministerial Officers, punishable by our Laws: This, I am persuaded appears to you, and all Mankind, so great, so shameful, and so mischievous to the Publick; that every Body will say, It is High Time to Redress it; Or the ill Consequences of it must, in a great measure, be Fatal and Destructive to the Publick; It is this that obligeth the few, comparatively few, Good, Faithful Officers we have, to call in their Aid and Help, other Honest, Sincere, Courageous Persons, in Order to the Discovery, and bringing to Justice, some of the vilest, most Flagitious, and Wicked Offenders.

If you, GENTLEMEN of the Juries sworn, and those that shall succeed you from Time to Time, would but Present, and Bring to Punishment, as far as the Law will Allow you, all Officers for the Careless Performance and shameful Neglect of their respective Duty; then there might be some Hope that the Assistance of others might be spared; but till then, whatever Shame it may reflect upon Bad Officers, the few Good Officers, comparatively still I mean, that there are; and even the Magistrates themselves, as they have not, so they will not for the future suffer their good Designs and Endeavours for the

Publick Service, to be much frustrated, nay,
almost entirely, if not altogether *Defeated*;
by Want of using the Service and Assistance
of those Persons they can Confide in, and
Depend upon; and may Legally employ as
Legal Assistants to the proper Officers: How
little could have been done without such
Assistants, in that Glorious Enterprize of
Suppressing the Publick Gaming-Houses;
which were become, in many Respects, a
Nuisance to the vast and populous Cities of
London and Westminster, and Parts adjacent;
leave to those Worthy Gentlemen to tell
you; who were so Generously employed in
that Honourable Work, with the good
Wishes, and Joy of their Brethren in their
Happy Success, for the Common Good and
Benefit of the Publick in general, and of
the County of *Middlesex* in particular.

The last Thing, GENTLEMEN, that I
lay a very great Stress upon, and recommend
with a good deal of Earnestness, and Impor-
tunity to you, is to Enquire into *All Breach*
Duty in Officers; that I mean especially,
which is plainly voluntary and wilful: The
Acting Contrary to the Duty of their Offices:
Or Acting Corruptly in the Administration
of them: And Here I wish there was less
Occasion for Complaint and Mourning, than
for what was mentioned under the former
Head: Extortion, Bribery, and all Sort of
Corruption in Officers, either to excuse from
Duty and Legal Service: Or to screen and

save from Justice and Punishment; are Offices to be punish'd very severely; as having some of the worst and most pernicious Influences on all Justice, good Order, and Government.

Let me therefore, GENTLEMEN, again Beg and Entreat, as well as Enjoin and Charge you, strictly to Enquire into the notorious, abominable Corruptions and Abuses, under Pretence and Colour, and as were, under the Protection of Justice; and in particular, if any Peace-Officers, or the Assistants, unlawfully Apprehend, and Take up Persons no ways misbehaving themselves but employ'd, or going only about the Lawful, necessary Business and Affairs, and afterwards Discharge them for a Bribe, Fee or Reward: There is an Absolute Necessity, GENTLEMEN, from the Outcry, Noise, Clamour, and undistinguishing Complaint made, of taking some effectual Measures, of making a Difference and Distinction between the Good and the Bad; some that may Act for Base and Wicked Ends; and others from Noble, Generous, Humane, and Kind Principles; between the Precious (as I may say) and the Vile: That the one may in Justice for the Common Good, receive their due Praise and Commendations; and the other condign Punishments, suitable to their Deserts. If Officers and their Assistants, employed even in Suppressing and Punishing Vice, Immorality, and Prophaneness, should, upon a

Fair

Pair, Candid Hearing, and Examination, be
 duly prov'd, and found to have taken any
 Sum, or Sums of Money, of any Person
 apprehended, *Whether he be brought before
 Magistrate or not*; The more Holy, the
 more Righteous, or Better the Work is in
 which They are engaged, The more Rigo-
 rous, and more Exemplary in several Respects
 ought to be the Punishment to be Inflicted
 on Them. And every Sincere, Honest Peace-
 Officer, and his Assistants, especially those
 that employ themselves in the Discovery and
 Prosecution of Vice, Immorality, and Pro-
 phaneness, must, I am confidently perswaded,
 say to this, *Heartily, Willingly, and Truly*,
 let it be so; We cheerfully submit our
 selves to this Trial and Examination, and
 the Worst Sentence and Punishment, if upon
 Due Proof found to be Guilty.

The Best Things are liable to be Counter-
 feited, in order to be made the Instruments
 of Worldly Gain, and Secular Advantage.
 The Reputation and Recommendation these
 Things give Men with Persons of Credit and
 Character, shews their Internal Real Excel-
 lency and Goodness, and *may make some* be at
 the *Pains and Trouble* to Counterfeit them;
 For to Play the Hypocrite, is to Act against
 Nature, which must be uneasy, as being
 unnatural: What Pity is it then, that Any
 should be at all this Toil and Labour, barely
 to Resemble, or Dissemble, what they have
 not; and at the last miss or lose the truly

Valuable End and Reward ; which in the *Best*, and *most Worthy* Designs and Undertakings, can only attend *Sincerity* ? And how Wicked and Abominable must it be, to depreciate and sully Things of the Greatest Highest Value, and Brightest Lustre, by Prostituting, and Using, or *Abusing* them rather, for Base, Vile, and Evil Purposes ?

This Kind of Scandalous, and I would hope (*except in very Few Instances that can be duly Proved*) Unjust Reflection, is, however, pretty commonly and liberally flung upon those Gentlemen, that have the Honour to serve His Majesty, and the Government as Peace-Officers : Their Offices are very useful, advantageous, and necessary Offices for the Publick Good ; but are never designed as Offices for Corrupt Gain and Profit : I must recommend it therefore to you GENTLEMEN of the Juries of High-Constables and Constables, in a particular manner, not only to be extremely Cautious and Circumspect in this Respect, in the Execution of your Offices *your selves* ; to take away Occasion from them that may seek an Occasion to Censure and Accuse you : But especially strictly to Enquire into, and Present such Peace-Officers, as may have been Guilty of these and the like Vile and Wicked Practices. By this Means, GENTLEMEN, you will most effectually either clear your Order, or Body of the Imputation ; Or best satisfy your own Minds, that you have done *your* utmost, to

Cure

the Cure and Prevent, for the future, the Evils
and Mischiefs complain'd of:

I shall now, GENTLEMEN, proceed to lay
before you His Majesty's Royal Proclama-
tion for the *Encouragement of Piety and Vir-*
tue, and for the Preventing and Punishing of
Vice, Prophaneness, and Immorality; the Im-
pressions of which I would leave with you in
this Order, promising my self that they will,
and must, as they ought, be the Deepest, most
lasting, and Influential. His Majesty, as you
have heard in this His Royal Proclamation,
both Direct and Command His Justices of
the Peace, as well as Judges of Assize; not
only to Cause the same Publickly to be read
in Open Court; but also to give strict Char-
ges at their respective Assizes and Sessions,
for the Due Prosecution and Punishment of
all such Persons, as shall presume to offend
in any of the Kinds mention'd therein; and
also of All Persons, that, contrary to their
Duty, shall be *Remiss or Negligent* in Putting
the Laws against those Offences in Execution;
These Offences are either *more particularly*
generally mention'd and express'd: Of
the First Sort are, Excessive Drinking, Blas-
phemy, Prophane Swearing and Cursing,
Lewdness, and Prophanation of the Lord's
Day, All Publick Gaming, and Gaming-Hou-
ses, especially on the Lord's-Day; and other
Lewd and Disorderly Houses: The Second
Sort are express'd by these general Words; Or
other Dissolute, Immoral, or Disorderly Pra-
ctices:

Edicts : These are all of them Direct Violations of the Laws, both of God and Man highly Affronting to the Divine Majesty shameful and scandalous, if allowed of, to the Kingdom ; and destructive and pernicious to the Peace, good Government, and Happiness of the Publick ; and therefore as His Majesty is pleased to Direct and Command *to be Effectually Suppress'd, Prosecuted, and Proceeded against with the Utmost Rigour that may be by Law.* For this Great End and Purpose, His Majesty is pleased strictly to Charge and Command, not only All His Officers and Ministers, Ecclesiastical and Civil ; but also all other His Subjects whom it may concern, to be very vigilant and strict in the Discovery, and the Effectual Prosecution and Punishment of all Persons, who shall be guilty of one or more of the Offences abovementioned. After *this Awakening Pressing Charge* from His Majesty, once more deliver'd to us, according to *His strict Injunctions* ; I hope no one will excuse himself from this Honourable Service ; the Encouraging of Piety and Virtue, and the Preventing and Punishing of Vice, Prophaneness, and Immorality : From this Time forward, GENTLEMEN, I would feign hope, that senseless, stupid, bold Blasphemers ; prophane Curser and Swearers, open Prophaners of the Lord's Day, *especially in Time of Divine Worship and Service* ; and Beastly Drunkards, that contrive to drown and confound their Reason and

Sense

Senses with Liquor ; and the Venders of Gin
 and other strong Waters ; who against Law
 not only frequently suffer Tipling, but dead-
 Drunkenness, in their Shops and Houses ; shall
 not escape your Prosecution, when they do
 not escape your Knowledge. The Cry of the
 last mention'd Wickedness, I mean excessive
 drinking Gin, and other pernicious Spirits ;
 is become so great, so loud, so importunate ;
 and the growing Mischiefs from it so many,
 so great, so destructive to the Lives, Families,
 Trades and Business of such Multitudes, *espe-*
cially of the lower, poorer Sort of People ;
 that I can no longer doubt, but it must soon
 reach the Ears of our Legislators in Parlia-
 ment assembled ; and there meet with a suit-
 able, proportionable, and effectual Redress or
 Punishment. But to proceed ; the Keepers
 of Publick Gaming-Houses, Bawdy-Houses,
 and other Lewd and Disorderly Houses ; those
 Nests and Scenes of vile and infamous Pra-
 ctices, with all the Retainers and Harbourers ;
 who there lay in wait to ensnare and entangle
 the innocent, the ignorant, the unthinking,
 unwary, and unexperienced, till they become as
 fear'd and hardned, as impudent and shame-
 less, as wretched and miserable as themselves ;
 All detestable, unnatural Sodomites ; and
 those guilty of Sodomitical Practices : All
 Ravishers and Assaulters, in order to Ravish
 Women and Infants : All Violaters of Wo-
 mens Chastity ; and common, abominable
 Prostitutes for filthy Lucre, Gain, and Hire ;
 These

These are all of them, in their severall R
and Orders, common Nufances, Enemies
Mankind, and human Society in gene
Offenders in a very high and notorious S
against God, the King, and the Subject, at
same Time, and in the same Instances;
therefore ought to be proceeded against,
according to His Majesty's Commands, with
proportionable Vigour and Alacrity; w
the utmost Severity and Rigour as may
by Law.

And now to conclude, in order to Enc
rage you, GENTLEMEN, to bring such no
rious Offenders; and all other Offende
against our excellent Constitution and La
and in particular all *Traytors* to the Sac
Person, Family, and Government of our Gr
and Gracious Sovereign Lord King *GEORGE*
and the Happy Settlement of the Success
in the Protestant Line; to Condign Pun
ment; (and that either in or out of Sessio
as the Case shall be and require;) I do, in
Name of the Court, and my Brethren, n
Promise and Assure you, of all the reasonab
lawful, fitting Encouragement and Assistanc
of this Court, and of the Members that co
pose it, as Justices of the Peace for
County of *Middlesex*.

E I N I S.

